

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kathy Young, as trustee for the heirs of
Samuel Young, Jr., Deceased,

Civil File No.: New Filing

Plaintiff,

vs.

HSGBS, d/b/a Marion Mixers, Becker-
Underwood, Inc. and Colorbiotics, A
Becker Underwood Company,

**DEFENDANT BECKER-
UNDERWOOD, INC. AND
COLORBIOTICS, A BECKER
UNDERWOOD COMPANY'S
NOTICE OF REMOVAL**

DEMAND FOR TRIAL BY JURY

Defendants.

Defendant Becker Underwood, Inc. and Colorbiotics, a Becker Underwood Company (hereinafter collectively referred to as "Becker Underwood" or "Defendant") hereby respectfully file its Notice of Removal of the above-captioned action to the United States District Court, District of Minnesota. In support of its Notice of Removal from the State of Minnesota, County of Dakota, First Judicial District Court, Defendant Becker Underwood avers as follows:

1. On May 31, 2011, a copy of the Summons and Complaint in an action entitled *Kathy Young, as trustee for the heirs of Samuel Young, Jr., Deceased v. HSGBS, d/b/a Marion Mixers, Becker-Underwood, Inc. and Colorbiotics, A Becker Underwood Company*, venued in the District Court for the County of Dakota, State of Minnesota, First Judicial District, was delivered to Defendant. The Summons and Complaint are

dated May 23, 2011 and May 26, 2011, respectively. A true and correct copy of the Summons and Complaint is attached hereto as Exhibit A and incorporated herein by reference.

2. The above-captioned lawsuit is a product liability wrongful death action in which the Plaintiff seeks damages for alleged manufacturing defects based on negligence, strict liability, breach of warranties, and misrepresentation.

3. Pursuant to Minnesota Rule of Civil Procedure Rule 3.01, the action was commenced by service Defendant on May 31, 2011, but on information and belief, has not been filed by Plaintiff with the court. The Summons and Complaint constitute all process, pleadings, and orders served on or by Defendant in this action to date.

4. The above-captioned action is one that this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332, and is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. §§1441(a) and 1446, in that:

a. Plaintiff is Kathy Young, as trustee for the heirs of Samuel Young, Jr., Deceased, and the decedent was a resident of the State of Minnesota;

b. Defendant HSGBS, d/b/a/ Marion Mixers is a corporation organized under the laws of the State of Iowa with its principal place of business in Iowa;

c. Defendant Becker Underwood, Inc. is a corporation organized under the laws of the State of Iowa with its principal place of business in Iowa;

d. Colorbiotics is not a separate legal entity, but rather, a business unit of Becker Underwood, Inc.; and

e. Based on the allegations contained in the Complaint, the amount in controversy in this action exceeds the sum of \$75,000, exclusive of interest and costs.

5. This Notice of Removal is being filed less than thirty (30) days after Defendants received a copy of the Summons and Complaint, and is therefore timely under 28 U.S.C. § 1446(b).

6. Defendant HSGBS, d/b/a/ Marion Mixers consents to this removal. A true and correct copy of HSGBS, d/b/a/ Marion Mixers's consent is attached hereto as Exhibit B.

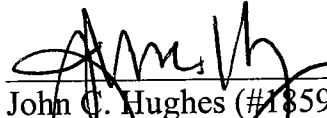
7. Defendant Becker Underwood has given written notice of this Notice of Removal to Plaintiff, and promptly after filing of this Notice of Removal, will cause a copy to be filed with the state court. A true and correct copy of Defendant Becker Underwood's Notice of Notice of Removal is attached hereto as Exhibit C.

8. For these reasons, this action may be removed to this Court under 28 U.S.C. § 1446(a).

WHEREFORE, Defendant Becker Underwood prays that the action currently pending in the State of Minnesota, County of Dakota, First Judicial District, and all

further proceedings in this action be conducted in the United States District Court for the District of Minnesota as provided by law.

Dated: June 9, 2011



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